



Health and Safety Reform Bill Transport and Industrial Relations Select Committee

The Salvation Army (New Zealand, Fiji and Tonga) Submission

1. BACKGROUND

- 1.1 The Salvation Army is a registered charity operating in the welfare and religious sectors providing accommodation, training, community development, emergency/disaster relief, social services, and employment. Services are provided to a wide range of members of the public but focus on those who are vulnerable including youth, children and older people. We have funding arrangements with the Ministry of Education, Ministry of Social Development, Ministry of Foreign Affairs and Trade, Accident Compensation Corporation, Ministry of Health, Corrections Department, and a number of District Health Boards. Over 2600 paid staff and 3400 volunteers work for The Salvation Army in an average week. The Salvation Army aims to care for people, transform lives and reform society.
- 1.2 The Salvation Army in New Zealand operates under a Territorial Commander and is governed by a Cabinet based at Territorial Headquarters in Wellington. A number of regionally based management operations (Auckland, Hamilton, Wellington and Christchurch) direct the local work (Churches, Community Ministries, Family Stores/Thrift Shops and Early Childhood Centres) of the Army. Located in our Programme Department are three nationally-managed social service programmes: Addictions and Supportive Accommodation (managed from Auckland), Education and Employment (managed from Wellington) and Home Care (managed from Hamilton). In conjunction with these services we operate a network of 71 Community Ministries Centres which provide social supports and services to 112,000 families each year. The Salvation Army also has a Social Policy and Parliamentary Unit based in Auckland and Wellington which provides robust research, advice and advocacy around social policy issues in New Zealand.
- 1.3 The following Salvation Army staff have been sent this submission, and/or earlier feedback that was submitted on the Draft Exposure

Health and Safety Reform Bill (in November 2013), and have had an opportunity to make comments on this submission:

- Secretary for Personnel (Cabinet Member)
- Secretary for Programme (Cabinet Member)
- Secretary for Business Administration (Cabinet Member)
- Secretary for Social Services/Community Ministries
- Director, Social Policy and Parliamentary Unit
- National Operations Manager, Education and Employment
- Quality Manager, Home Care
- Property Secretary, Territorial Headquarters
- Human Resources Manager
- Commercial Manager

1.4 This submission has been approved by Commissioner Robert Donaldson, the Territorial Commander of The Salvation Army's New Zealand, Fiji and Tonga Territory.

2. THE SALVATION ARMY PERSPECTIVE

2.1 The Salvation Army **supports** the intent of the proposed Health and Safety Reform Bill which aims to secure the health and safety of workers and workplaces and is particularly supportive of the increased clarity around responsibilities, and the focus on leadership, accountability, and increased training.

2.2 In particular we are supportive of the:

- increased clarity regarding PCBU (Persons in Control of a Business Undertaking) and officers/directors responsibilities (Clauses 30-39),
- increased clarity around the H&S duties that multiple duty holders may have in the workplace (Clause 26),
- focus on leadership, accountability, participation, continuous improvement
- provision of information, education and training in relation to health and safety (Clause 3).

We are hopeful these changes will improve workplace health and safety for all New Zealanders.

2.3 In response to this Bill however, we want to recommend changes in the following areas:

- Include consequence and likelihood in the definition of risk (Clause 12 - Interpretation).
- Make trainees and volunteers exempt from Part 3, Subpart 2 and 3 - Health and Safety Representatives and Health and Safety Committees.
- Further define what ‘the loss of a bodily function’ means particularly in regard to fractures and minor concussions/loss of consciousness (Clause 18).
- Make landlord’s responsibilities more explicit with regard to rented residences and ensuring structures, fittings, fixings are without risk to the health and safety of all persons - all homes are workplaces to the people entering these homes to provide services (Clause 32, 15, 33 and 37).
- Clarify that Clause 65 (requesting a PCBU to undertake election of H&S Representative) and Clause 66 (determining workgroups) can be complied with by a PCBU at the local level (i.e. the level at which the request originated), and does not automatically require a PCBU to determine workgroups for its entire operation.
- Government should increase the level of funding in contracts by 1% in order to cover staff additional health and safety development and training initiatives.

3. RESPONSES TO SPECIFIC AMENDMENTS TO LEGISLATION

3.1 Clause 12: Interpretation

It is helpful to have definitions of hazard and risk. The Bill defines risk as ‘the possibility that death, injury, or illness might occur when a person is exposed to a hazard. The definition of risk should include a reference to consequence and likelihood as, in practice, this is how risk is usually considered and measured in a health and safety context.

We recommend including consequence and likelihood in the definition of risk.

3.2 Clause 14: Definition of Worker

Trainees have been included in the definition of worker. The Salvation Army's Employment Plus provides training to a number of learners throughout NZ. The Salvation Army engages over 3400 volunteers. We believe trainees and volunteers should be treated like employees in terms of the duties outlined under Clause 30 (provision of a safe workplace, plant, structures and facilities, and management of substances, as well as provision of information and training and monitoring of health). We also support the worker engagement and participation Clauses (Part 3, Subpart 1, Clauses 61-64) being applied to trainees and volunteers. However we do not believe that the Bill's requirements in relation to Health and Safety Representatives and Health and Safety Committees should apply to trainees and volunteers (Part 3, Subpart 2-3, and Clauses 65 - 91). Electing H&S Reps for trainees who attend 12 week courses is not practicable and would be an on-going logistical headache with minimal (if any) improvement in workplace health and safety outcomes as a result. Similarly many volunteers are in their roles temporarily, and those that stay have very little interest in being health and safety representatives or attending committee meetings.

We recommend trainees and Volunteers be exempt from Part 3, Subpart 2 and 3 (Health and Safety Representatives and Health and Safety Committees).

3.3 Clause 18 -20: Notifiable injuries and incidents and events

Section 18 replaces the Serious Harm section of the current Health and Safety in Employment Act. Under the current Act we are required to report 'permanent loss of bodily function or temporary severe loss of bodily function' and this includes 'Bone fracture'. Every year The Salvation Army reports around 20 serious harm accidents to the regulator. The majority are broken arms, legs, fingers or toes each year, usually through people tripping over things, and often involving church members rather than employees. A few of our reported serious harm injuries are minor concussions where consciousness is lost for seconds.

Under the proposed Bill, 'the loss of a bodily function' triggers the requirement to notify the regulator. This could cover fractures and minor concussions as these are not covered anywhere else in this Clause but it is not clear whether it does or not; what does 'loss of a

bodily function' mean? Is it permanent, or temporary? Would a broken finger or short term loss of consciousness constitute loss of a bodily function? This requires more clarification.

We submit this Committee further define what 'the loss of a bodily function' means particularly in regard to fractures and minor concussions/loss of consciousness.

3.4 Clause 32 (and 15, 33 and 37) - PCBU Responsibilities When Workers Work in Client's Homes

A Workplace is anywhere where work is carried out for a business or undertaking (Clause 15). The Salvation Army engages around 900 workers to go into people's homes to provide personal care to clients (funded by ACC and DHBs). Homes frequently have slippery ramps, ripped carpet, rotten floor boards etc. The client/occupier of the home is not a PCBU with management of control of the workplace (excluded in Clause 32(2)). The Salvation Army cannot control the workplace (we can't fix slippery ramps or rotten boards in houses we don't own). So who is the PCBU in control of the workplace? Where there is a high risk to our workers and we are unable to control/manage/fix these issues then sometimes our only alternative sometimes is to withdraw our service, which doesn't help the client.

Many of the homes our workers visit are rented. Will homes be considered workplaces and will landlords be considered to be PCBUs under Clause 33 (managing fixtures and fittings at workplaces) or Clause 37 (supplying structures that could be used as workplace) where workers are going into rented homes to provide a service to tenants?

We believe our workers who go into people's homes should have additional protections under the Health and Safety legislation and making landlord's PCBU responsibilities more explicit would assist with this.

We recommend making landlord's PCBU responsibilities more explicit with regard to rented residences and ensuring structures, fittings, fixings are without risk to the health and safety of all persons - all homes are workplaces to the people entering these homes to provide services (Clauses 33 and 37).

3.5 Part 3, Subpart 2 (clause 65- 66) Electing H&S Representatives and Determining work groups

These clauses require some additional wording to clarify meaning. Or maybe the PCBU definition needs some additional wording. The Salvation Army has over 300 sites that operate with independent managers. Under the proposed Health and Safety Bill The Salvation Army will have national and regional managers who will be PCBUs, but presumably it will also have a number of local managers who are PCBUs. Under Clause 65, if a worker notifies the PCBU that the worker wishes 1 or more health and safety representatives to be elected, is it the manager of the national organisation, or the regional organisation or the local level centre that needs to respond as a PCBU and determine workgroups and hold an election? For example, would one employee requesting the election of a representative (Clause 65) at one of our 300+ centres initiate the need for determination of work groups nationally (Clause 66)?

The Salvation Army has had arrangements in place since 2003 whereby all of our individual sites are required to meet with staff annually and find out how they want to be represented on H&S issues, and what Health and Safety Forums they want (staff meetings or H&S committees). Most sites have health and safety reps, although a number of sites with few paid staff have opted not to have representatives. Similarly of our larger sites have committees but smaller sites usually discuss health and safety issues at staff meetings.

The requirement to set up workgroups, if this was something that was to happen at national level would be a huge undertaking, given that it would have to be done in conjunction with our large workforce across 300+ sites. And it is doubtful whether the end result would improve Health and Safety, given that we already have representatives and committees at sites where employees have said they want these participation mechanisms.

We believe the mechanisms described in sections 65 - 66, if applied at national level, would require significant central administrative work to set up and maintain, without giving any significant gain in Health and Safety at the front line.

We recommend clarifying that clause 65 (requesting a PCBU to undertake election of H&S Representative) and clause 66 can be complied with by a PCBU at the local level (i.e. the level at which

the request originated), and does not automatically require a PCBU to determine workgroups for its entire operation.

3.6 Additional Costs of the Health and Safety Reform Bill

The Salvation Army supports the intent of this Bill. Staff safety is a priority for us and we recognise that in order to meet our duties under the proposed Health and Safety Reform Bill, and in order to keep our staff safe, we will need to provide additional resources. There will be additional costs for us in the following areas:

- securing the safety of employees (improving physical safety, increasing numbers of employees etc.) and training employees (more non-violent crisis intervention training, more manual handling training etc.)
- training costs for managers, board, H&S Coordinator to ensure all managers and directors are aware of their responsibilities and are able to accurately assess risk.
- training costs for H&S Reps
- extra reporting, monitoring, and reviewing

We are looking to put additional investment into initiatives to ensure staff has the resources required to do their work safely. We have a number of contracts with government. Government contracts will need to increase their level of funding in order to provide funds for providers to ensure safety initiatives can be resourced.

We recommend that the Government should increase the level of funding in their contracts by 1% in order to cover staff development and training initiatives.

4. CONCLUSION

Thank you for the opportunity to make a submission to this Bill. We look forward to more robust discussion and dialogue throughout this legislative process.

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